

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**PEABODY ENERGY CORPORATION,**

and

**ARCH COAL, INC.,**

Defendants.

Civil Action No. 4:20-cv-00317-SEP

**PLAINTIFF FEDERAL TRADE COMMISSION'S FINAL WITNESS LIST**

Pursuant to the Modified Case Management and Scheduling Order ¶ C.15, Plaintiff Federal Trade Commission provides the below final list of witnesses Plaintiff may call live, via remote testimony, or whose video deposition may be played at the preliminary injunction hearing in this matter. The indications below regarding the manner of each witness's appearance are based on current information, but not all witnesses have indicated their final intentions and Plaintiff reserves the right to call any of these witnesses by remote testimony or deposition should circumstances warrant. Plaintiff reserves the right to: (1) question the persons listed below about any topics that the person testified about at his or her deposition or investigational hearing, any topics addressed in any sworn declaration executed in connection with this matter, and about any matter that is discussed in any document to which the person had access and which is designated as an exhibit by either party; (2) call any fact witness at the preliminary injunction hearing who appears on Defendants' final witness list; (3) call the custodian of records of any party or non-party from whom documents or records have been obtained to the extent necessary to demonstrate the authenticity or admissibility of documents, in the event a stipulation cannot be reached; and (4) call any witness, including witnesses not identified below, for the limited purpose of impeachment or rebuttal of testimony offered at trial.

NAME	EMPLOYER	ADDRESS	COUNSEL	SUMMARY OF GENERAL TOPICS OF ANTICIPATED TESTIMONY	ANTICIPATED MANNER OF TESTIMONY
Benham, Kathy	Minnesota Power	30 W. Superior Street Duluth, MN 55802	Andrew B. Kolesar, Esq. Slover & Loftus LLP 1224 17th Street, NW Washington, D.C. 20036 <a href="mailto:abk@sloverandloftus.com">abk@sloverandloftus.com</a> (202) 347-7170	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers	Via remote video testimony, pursuant to accommodations requested by the witness.
Hill, Nicholas (EXPERT)	Bates White Economic Consulting	2001 K St, NW North Building, Suite 500 Washington, DC 20006	Amy Dobrzynski, Esq. Counsel for Plaintiff	Expert testimony pursuant to Fed. R. Evid. 702 concerning the competitive effects of the proposed transaction; market definition, market shares and market concentration; economic principles and techniques relevant to the analysis of acquisitions; the Horizontal Merger Guidelines; Defendants' alleged efficiencies resulting from the transaction; the opinions disclosed by Dr. Israel, Dr. Bailey, or Ms. Carey, including if necessary rebuttal of Dr. Israel, Dr. Bailey, or Ms. Carey's trial testimony; and any other matters addressed in the expert reports, depositions, and any other prior statements of Dr. Hill, Dr. Israel, Dr. Bailey and Ms. Carey.	Live testimony.

NAME	EMPLOYER	ADDRESS	COUNSEL	SUMMARY OF GENERAL TOPICS OF ANTICIPATED TESTIMONY	ANTICIPATED MANNER OF TESTIMONY
James, David	Peabody Energy Corp.		Gorav Jindal, Esq. Counsel for Defendants	Information concerning the proposed transaction and the sale of SPRB coal.	Live testimony.
Jeffries, Amy	American Electric Power	1 Riverside Plaza Columbus, OH 43215	James A. King, Esq. Porter Wright Morris & Arthur LLP 41 South High Street, Suites 2800 – 3200 Columbus, OH 43215 <a href="mailto:jking@porterwright.com">jking@porterwright.com</a> (614) 227-2051	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers	Via remote video testimony, or in the alternative via video deposition.
Jones, Jeff	Ameren	1901 Chouteau Ave St. Louis, MO 63103	Richard B. Walsh, Jr., Esq. Lewis Rice, LLP 600 Washington Avenue, Suite 2500 St. Louis, MO 63101 <a href="mailto:rwalsh@lewisrice.com">rwalsh@lewisrice.com</a> 314-444-7722	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Live testimony.
Meyer, Andrew	Ameren	1901 Chouteau Ave St. Louis, MO 63103	Richard B. Walsh, Jr., Esq. Lewis Rice, LLP 600 Washington, Avenue Suite 2500 St. Louis, MO 63101 <a href="mailto:rwalsh@lewisrice.com">rwalsh@lewisrice.com</a> 314-444-7722	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Live testimony.

NAME	EMPLOYER	ADDRESS	COUNSEL	SUMMARY OF GENERAL TOPICS OF ANTICIPATED TESTIMONY	ANTICIPATED MANNER OF TESTIMONY
Peterson, Eric	Evergy, Inc.	1200 Main Street Kansas City, MO 64105	Kelvin Dowd, Esq. Slover & Loftus LLP 1224 17th Street, NW Washington, D.C. 20036 <a href="mailto:kjd@sloverandloftus.com">kjd@sloverandloftus.com</a> (202) 347-7170	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Live testimony.
Rhul, Gary	Omaha Public Power District	444 S. 16 <sup>th</sup> St. Omaha, NE 68102	Stephen M. Bruckner, Esq. Fraser Stryker PC LLO 409 S 17 <sup>th</sup> St #500 Omaha, NE 68102 <a href="mailto:sbruckner@fraserstryker.com">sbruckner@fraserstryker.com</a> 409-978-5225	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Via remote video testimony, pursuant to accommodations requested by the witness.
Romer, Craig	Xcel Energy	414 Nicollet Mall Minneapolis, MN 55401	Kathryn A. Reilly, Esq. Wheeler Trigg O'Donnell LLP 370 Seventeenth Street, Suite 4500 Denver, CO 80202 <a href="mailto:reilly@wtotrial.com">reilly@wtotrial.com</a> 303-244-1983	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Via remote video testimony, pursuant to accommodations requested by the witness.

NAME	EMPLOYER	ADDRESS	COUNSEL	SUMMARY OF GENERAL TOPICS OF ANTICIPATED TESTIMONY	ANTICIPATED MANNER OF TESTIMONY
Sandlin, Meri	Western Fuels Association	12050 N. Pecos Street Suite 310 Westminster, CO 80234	Rex Johnson, Esq. Sherard, Sherard & Johnson 602 10 <sup>th</sup> Street PO Box 69 Wheatland, WY 82201 307-322-2102 <a href="mailto:rex@ssjwylaw.com">rex@ssjwylaw.com</a>	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Live testimony.
Siebers, Michael	Peabody Energy Corp.		Gorav Jindal, Esq. Counsel for Defendants	Information concerning the proposed transaction and the sale of SPRB coal.	Live testimony.
Smith, Rowdy	Arch Resources, Inc.		Stephen Weissman, Esq. Counsel for Defendants.	Information concerning the proposed transaction and the sale of SPRB coal.	Live testimony.
Whalen, Bette	Lower Colorado River Authority	3700 Lake Austin Blvd Austin, TX 78703	Breck Harrison, Esq. Jackson Walker LLP 100 Congress Avenue Suite 1100 Austin, TX 78701 <a href="mailto:bharrison@jw.com">bharrison@jw.com</a> (512) 236-2315	Information concerning the proposed transaction, the procurement and use of SPRB coal, the business practices and operations of SPRB coal purchasers, SPRB coal competition, and the business practices of SPRB coal suppliers.	Via remote video testimony, pursuant to accommodations requested by the witness.

<b>NAME</b>	<b>EMPLOYER</b>	<b>ADDRESS</b>	<b>COUNSEL</b>	<b>SUMMARY OF GENERAL TOPICS OF ANTICIPATED TESTIMONY</b>	<b>ANTICIPATED MANNER OF TESTIMONY</b>
Zmijewski, Mark E. (EXPERT)	Charles River Associates	One South Wacker Drive, 34 <sup>th</sup> Floor Chicago, IL 60606	Jonathan Lasken, Esq. Counsel for Plaintiff	Expert testimony pursuant to Fed. R. Evid. 702 concerning the Defendants' alleged efficiencies resulting from the transaction; the opinions disclosed by Dr. Israel, including if necessary rebuttal of Dr. Israel's trial testimony; and any other matters addressed in the expert reports, depositions, and any other prior statements of Dr. Zmijewski and Dr. Israel.	Live testimony.

Dated: June 15, 2020

Respectfully Submitted,

/s/ Daniel Matheson

DANIEL MATHESON 502490 (DC)  
AMY DOBRZYNNSKI  
Federal Trade Commission  
Bureau of Competition  
400 Seventh Street, SW  
Washington, DC 20024  
Telephone: (202) 326-2075  
[dmatheson@ftc.gov](mailto:dmatheson@ftc.gov)  
[adobrzynski@ftc.gov](mailto:adobrzynski@ftc.gov)

*Counsel for Plaintiff Federal Trade Commission*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 15th day of June, 2020, I served the foregoing on the following counsel via electronic mail:

Ted Hassi  
Debevoise & Plimpton LLP 801 Pennsylvania  
Avenue N.W. Washington, D.C. 20004  
Tel: (202) 383-8135  
Email: [thassi@debevoise.com](mailto:thassi@debevoise.com)

Gorav Jindal  
Akin Gump Strauss Hauer & Feld LLP 20001 K St.  
NW  
Washington, DC 20006  
Tel: (202) 887-4234  
Email: [gjindal@akingump.com](mailto:gjindal@akingump.com)

*Counsel for Defendant Peabody Energy  
Corporation*

Stephen Weissman  
Michael Perry  
Baker Botts LLP  
1299 Pennsylvania Ave. NW Washington, DC  
20004  
Tel: (202) 639-1313  
Email: [stephen.weissman@bakerbotts.com](mailto:stephen.weissman@bakerbotts.com) Email:  
[michael.perry@bakerbotts.com](mailto:michael.perry@bakerbotts.com)

*Counsel for Defendant Arch Coal, Inc.*

---

/s/ Taylor Alexander  
Taylor Alexander  
Attorney for Plaintiff Federal Trade Commission